

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

KUANG-BAO PAUL OU-YOUNG,

Plaintiff,

v.

COUNTY OF SANTA CLARA, et al.,

Defendants.

Case No. 21-cv-07361-BLF

**ORDER SUMMARIZING STATUS OF
SERVICE OF PROCESS RE ALL
DEFENDANTS; AND DISMISSING
ALL REMAINING NON-FEDERAL
DEFENDANTS FOR LACK OF
SERVICE OF PROCESS**

Plaintiff Kuang-Bao Paul Ou-Young's first amended complaint ("FAC") names 216 individuals and entities as defendants. *See* FAC, ECF 21. Many of those defendants have been dismissed, and the Court finds it appropriate to dismiss additional defendants at this time. Below, the Court summarizes the status of service of process with regarding all defendants.

10 Defendants Named in Original Complaint Dismissed for Lack of Service

On January 25, 2022, the Court dismissed the following 10 defendants named in the original complaint, without prejudice, for lack of service of process: John Chase, Jeanette Tonini, Karl Sandoval, Karan Dhadialla, Jose Martinez, Christopher Rudy, Joseph Huber, State of California, State Bar of California, and Edmund G. Brown, Jr. *See* Order, ECF 17. Plaintiff improperly renamed those 10 defendants in the FAC. *See* FAC, ECF 21. Plaintiff did not have leave of the Court to rename those 10 defendants, and he still has not filed proof of service of process as to those defendants. The Court clarifies that those 10 defendants have been DISMISSED from this action WITHOUT LEAVE TO AMEND, but WITHOUT PREJUDICE to suing them in a new action. *See* 4B Wright & Miller, Federal Practice & Procedure § 1137 ("A dismissal without prejudice under Rule 4(m) for failure to serve process is intended to leave the plaintiff in the same position as if the action never had been filed.).

108 Defendants Dismissed Pursuant to Pre-Filing Review Orders

On March 15, 2022, the Court dismissed 108 defendants identified as federal judges on the basis that Plaintiff failed to obtain leave of court to sue them as required by applicable pre-filing review orders. *See* Order, ECF 26. The 108 dismissed federal judges are listed in the order issued on March 15, 2022. *See id.* The Court clarifies that those 108 defendants have been DISMISSED WITHOUT LEAVE TO AMEND, but WITHOUT PREJUDICE to suing them in a new action, subject to the applicable pre-filing review orders.

5 Defendants Dismissed on the Merits following Motion to Dismiss

On May 10, 2022, the Court granted a motion to dismiss brought by 5 defendants, the County of Santa Clara and four County officials. *See* Order Granting Mot. to Dismiss, ECF 32. Dismissal of those 5 defendants was WITHOUT LEAVE TO AMEND and WITH PREJUDICE. *See id.*

11 Defendants now Subject to Dismissal for Failure to Serve Process

The remaining 93 defendants fall into two groups: 82 individuals and entities that are affiliated with the federal government (“Federal Defendants”),¹ and 11 individuals and entities that are not affiliated with the federal government (“Non-Federal Defendants”). Plaintiff has not filed proof of service on the Non-Federal Defendants, and his deadline to do so has elapsed. *See* Fed. R. Civ. P. 4(m). The Court advised Plaintiff that failure to serve process within the time provided by Federal Rule of Civil Procedure 4(m) would result in dismissal of unserved defendants without further notice. *See* Order, ECF 26. Accordingly, the 11 Non-Federal Defendants listed below are HEREBY DISMISSED WITHOUT LEAVE TO AMEND but WITHOUT PREJUDICE to suing them in a new action. *See* 4B Wright & Miller, Federal Practice & Procedure § 1137 (“A dismissal without prejudice under Rule 4(m) for failure to serve process is intended to leave the plaintiff in the same position as if the action never had been filed.”).

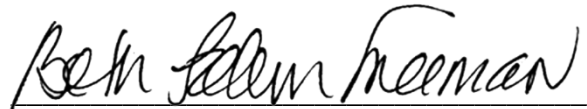
¹ One of the 82 Federal Defendants is identified as “Members of the 107th Congress are U.S. senators or representatives 14 who served between January 3, 2001 and January 3, 2003.” FAC ¶ a.214. The Court follows Plaintiff’s lead in treating that group as a single defendant. *See id.*

1 Laurie Mikkelsen
2 Gavin C. Newsom
3 Shirley Weber
4 Robert A. Bonta
5 Jeffrey R. Vincent
6 Lora D. Curtis
7 Rolando Pasquali
8 Kimberly McCrickard
9 Twitter, Inc.
10 Meta Platforms, Inc.
11 Google, Inc.

12
13 *82 Remaining Defendants*

14 In light of the dismissals summarized above, there are a total of 82 defendants remaining in
15 this case, all affiliated with the federal government. The United States has filed a motion to
16 dismiss those 82 Federal Defendants in their official capacities, and it urges the Court to dismiss
17 *sua sponte* all Federal Defendants in their individual capacities. *See* Fed. Defs.' Mot., ECF 39.
18 The United States' motion is not yet fully briefed. Once briefed, the motion will be addressed in a
19 separate order.

20
21 Dated: June 16, 2022



BETH LABSON FREEMAN
United States District Judge